

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Wesley Edward Smith III,)
)
Plaintiff,)
)
v.)
)
South Carolina, Governor Henry)
McMaster, Attorney General Alan)
Wilson, Mayor Joseph P. Riley, Charlie)
Condon, Commissioner of Social)
Security, Carolina Franchise Holdings,)
Inc. LLC, Burger King, Inc., Pepsi)
Bottling Group Inc., Superintendent)
CCSD, Cummins Engine, James E.)
Clyburn, Wendong Gillyard, Marvin)
Pendarvis, Bank of America, Military)
Magnet Academy, President Joe)
Biden, Donald Trump, Barrack Obama,)
George W. Bush, William Clinton,)
Senator Lindsey Graham, Dr. Anthony)
Fauci, Hillary Clinton, Anthony)
Blinken, Senator Mitch McConnell,)
Nancy Pelosi, Honorable Kevin)
McCarthy, Piggly Wiggly Inc., Low)
County Grocery Fincerern, Honorable)
Joseph Dawson III, Equal Employment)
Opportunity Commissioner, Department)
of Labor, Daniel Frank Blanchard,)
RE/Max Pro Realty,)
)
Defendants.)
_____)

Civil Action No. 2:23-cv-5320-BHH

ORDER

This matter is before the Court upon Plaintiff Wesley Edward Smith II's pro se ("Plaintiff") complaint against the above-named Defendants. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), D.S.C., the matter was referred to a United States Magistrate Judge for preliminary review.

After liberally construing the allegations of Plaintiff's complaint, the Magistrate Judge

issued a report and recommendation (“Report”) on October 26, 2023, outlining the issues and recommending that the Court summarily dismiss Plaintiff’s complaint as patently frivolous under 28 U.S.C. § 1915. The Magistrate Judge also explained that all of the named Defendants are entitled to dismissal because Plaintiff does not allege facts showing their direct involvement in any alleged unconstitutional conduct. Additionally, the Magistrate Judge noted that this action is duplicative to a number of other actions filed by Plaintiff raising similar frivolous claims. For these reasons, the Magistrate Judge recommended in her Report that the Court dismiss this action pursuant to § 1915(e)(2)(B) without issuance and service of process and without giving Plaintiff the opportunity to amend. Attached to the Magistrate Judge’s Report was a notice advising Plaintiff of the right to file written objections to the Report within fourteen days of being served with a copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the

recommendation.”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because no objections to the Report have been filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge’s analysis. Accordingly, the Court hereby adopts and incorporates the Magistrate Judge’s Report (ECF No. 12), and the Court summarily dismisses this action pursuant to § 1915(e)(2)(B), without further leave to amend and without issuance and service of process.

IT IS SO ORDERED.

/s/Bruce H. Hendricks
United States District Judge

November 13, 2023
Charleston, South Carolina